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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,769	09/28/2004	Wolf-Peter Schwarz	18008	2153

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GARDEN CITY, NY 11530

EXAMINER

LAVINDER, JACK W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,769	<b>Applicant(s)</b> SCHWARZ, WOLF-PETER	
	<b>Examiner</b> Jack W. Lavinder	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 10 and 13 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 9 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 11 and 14-23 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/21/06.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8 and 10 have been rejected under 35 U.S.C. 102(b) as being anticipated by Law, 4793155.

Regarding claim 1, Law discloses an item of jewelry (22) fastened to a jewelry element (20). The jewelry item includes a setting (29, 32) with a support part (32-34) and a fastening device (48) with an externally actuatable leaf spring (62) including a latching element (65) on the latch spring (62). The jewelry element (22) includes a recess, i.e., the recess formed between elements 58, which cooperates with the latching element (65).

Regarding claim 2, Law discloses an actuation element (64).

Regarding claim 3, Law discloses an actuation element in the form of a lever (64), which is perpendicular to the extension direction of the latching element (65), i.e. the direction into and out of the page in figures 2 and 5a.

Regarding claim 4, Law discloses a notch (35) in the support part.

Regarding claim 5, Law discloses a groove (63, figure 4) in which the end of the leaf spring (48) is embedded.

Regarding claim 8, Law discloses a cylindrical bore as the aperture in the support part (32, figure 1).

Regarding claim 10, Law discloses a setting capable of receiving a precious stone or a pearl instead of the decorative dome (37).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Law in view of Hartgrove, 6701747 .

Law fails to disclose a chamfer for facilitating the ease of access to the leaf spring for manually releasing the fastening element. Hartgrove discloses that it is old and well known to put a chamfer (28) in a region of engagement by the wearer's finger in order to facilitate the access to the lever device (40). Therefore, it would have been obvious to a person having ordinary skill in the art to provide a chamfer in Law's device

to facilitate the ease of access to the lever/leaf spring by the wearer's finger in order to more effectively operate the device.

***Allowable Subject Matter***

6. Claims 6, 7, 9 and 12 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed 7/12/2006 have been fully considered but they are not persuasive. The applicant argues in the last paragraph of page 14 of their remarks that the latching element is constructed under a leaf spring. This argument is moot since the claims fail to require that the latching element be constructed under the leaf spring. The applicant also argues that Law's leaf spring is not manually actuatable from an external region. This limitation is directed to the use of the device. Law's leaf spring is capable of performing this function with a tool or long fingernail. Therefore, Law's device discloses all the claimed limitations.

Applicant argues in the last paragraph of page 15 that Law's device doesn't include a peripheral groove for receiving the leaf spring. This argument is moot because claims 5 and 6 only require a groove not a peripheral groove. Law discloses a groove for receiving the leaf spring.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

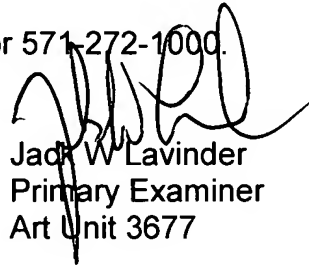
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jack W. Lavinder  
Primary Examiner  
Art Unit 3677

9/8/2006